

Message Text

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41

ORIGIN L-03

INFO OCT-01 ARA-16 EUR-25 ADP-00 AF-10 EA-11 NEA-10 RSC-01

IO-13 CAB-09 CIAE-00 COME-00 DODE-00 EB-11 INR-10

NSAE-00 FAA-00 PA-03 PRS-01 USIA-15 SS-15 NSC-10

OIC-04 DOTE-00 H-03 M-03 A-01 SY-10 USSS-00 AID-20

TRSE-00 JUSE-00 OMB-01 SCA-01 /207 R

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8/1/73 EXT 23736

APPROVED BY AMB. ROUNTREE

EA/RA:FCBENNETT L/EB:HRGAITHER

ARA:BLISTER

IO/TRC:SFRIEDLAND FAA:BSELFON

AF/RA:PCWALKER

EB/TT/OA:JMEADOWS CAB:WGINGERY

NEA/RA:RWCHASE

EUR:JDRENDahl DOT/OST/GC:PLARSON

S/CCT:AMBASSADOR HOFFACKER

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R 041526Z AUG 73

FM SECSTATE WASHDC

TO ALL DIPLOMATIC POSTS

INFO AMCONSUL MONTREAL

AMCONSUL RIO DE JANEIRO

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E.O. 11652: N/A

TAGS: PINS, PFOR, ETRN

SUBJECT: CIVAIR: ICAO EXTRAORDINARY ASSEMBLY/DIPLOMATIC

CONFERENCE--ROME, AUGUST 28-SEPTEMBER 21, 1973

MONTREAL FOR US REP ICAO

1. AIDE MEMOIRE, DESCRIBING ABOVE-CITED ASSEMBLY/CONFERENCE

IN SOME DETAIL AND PRESENTING US POSITION ON PROPOSALS TO BE

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CONSIDERED, FOLLOWS FOR TRANSMISSION TO HOST GOVERNMENTS.

2. BEGIN TEXT:

AN INTERNATIONAL CONFERENCE ON AIR LAW AND AN

EXTRAORDINARY ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION WILL CONVENE IN ROME AUGUST 28. THE CONFERENCE WILL CONSIDER A PROPOSAL OFFERED BY THE NORDIC GOVERNMENTS FOR AN INDEPENDENT CONVENTION AND A PROPOSAL OFFERED BY THE SOVIET GOVERNMENT FOR A PROTOCOL TO THE HAGUE (HIJACKING) CONVENTION. NEITHER PROPOSAL CONTEMPLATES MANDATORY SANCTIONS AGAINST ANY STATE. THE EXTRAORDINARY ASSEMBLY WILL CONSIDER SEVERAL PROPOSALS TO AMEND THE CHICAGO CONVENTION OFFERED BY THE GOVERNMENTS OF FRANCE, SWITZERLAND AND THE UNITED KINGDOM.

THE CONTINUING THREAT TO THE SAFETY OF INTERNATIONAL CIVIL AVIATION POSED BY AIRCRAFT HIJACKING AND SABOTAGE REQUIRES POSITIVE ACTION BY THE INTERNATIONAL AVIATION COMMUNITY AT THE ROME MEETINGS. MOREOVER, A SUCCESSFUL OUTCOME OF THESE MEETINGS WOULD EMPHASIZE AND ENHANCE THE ROLE OF ICAO AS A BODY DEALING WITH ALL ASPECTS OF THE SAFETY OF INTERNATIONAL CIVIL AVIATION.

THE POSITIVE AND CONSTRUCTIVE ATTITUDE EXPRESSED BY MANY STATES ON THIS SUBJECT SHOULD ASSURE SUCH A SUCCESSFUL OUTCOME. SIGNIFICANTLY, THE PROPOSAL FOR AN INDEPENDENT CONVENTION AND CERTAIN OF THE PROPOSED AMENDMENTS TO THE CHICAGO CONVENTION ARE NOT COMPETING APPROACHES BUT COULD CONSTITUTE PARTS OF THE SAME EFFORT TO BRING ABOUT BROADER CONFORMITY TO THE PRINCIPLES REFLECTED IN THE HAGUE AND MONTREAL CONVENTIONS. THE GOVERNMENT OF THE UNITED STATES THEREFORE STRONGLY SUPPORTS AN INDEPENDENT CONVENTION, AS AN EXPEDITIOUS MEASURE TO PROMOTE THE SAFETY OF INTERNATIONAL CIVIL AVIATION, AND COULD SUPPORT APPROPRIATE AMENDMENTS TO THE CHICAGO CONVENTION, AS PART OF A LONG RANGE AND COMPREHENSIVE APPROACH TO THIS SUBJECT. THIS APPROACH, OF COURSE, WOULD NOT EXCLUDE SERIOUS CONSIDERATION OF THE SOVIET PROPOSAL PROVIDED IT WAS SUITABLY MODIFIED.

THE PROPOSED INDEPENDENT CONVENTION OFFERED BY THE NORDIC GOVERNMENTS WOULD ENABLE A STATE PARTY TO REQUEST LIMITED OFFICIAL USE
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THE ICAO COUNCIL TO CONSIDER WHETHER ACTIONS BY ANOTHER STATE CONFLICTED WITH THE PRINCIPLES OF THE HAGUE AND MONTREAL CONVENTIONS. IF THE COUNCIL CHOSE TO ACT, IT MIGHT APPOINT A COMMISSION OF EXPERTS TO ASSIST IT IN THIS TASK. IF THE COUNCIL THEN CONCLUDED THAT A STATE'S ACTIONS CONFLICTED WITH THE HAGUE AND MONTREAL PRINCIPLES, IT COULD RECOMMEND THAT SUCH STATE TAKE APPROPRIATE MEASURES TO REMEDY THE SITUATION. IF THE RECOMMENDATION WAS NOT FOLLOWED, OR IF THE COUNCIL CHOSE NOT TO ACT, THE COMPLAINING STATE PARTY COULD REQUEST THE SECRETARY GENERAL OF ICAO TO CONVENE A CONFERENCE OF STATES PARTY TO THE CONVENTION WHICH COULD RECOMMEND THAT THE STATE COMPLAINED

OF REMEDY THE SITUATION.

THE ADOPTION OF THIS PROPOSAL WOULD BE A VALUABLE STEP FORWARD. TO IMPROVE ITS EFFECTIVENESS, THE USG HAS SUGGESTED TO ICAO THAT THE INITIAL CONSIDERATION OF ACTIONS ALLEGED TO CONTRAVENE THE HAGUE AND MONTREAL PRINCIPLES SHOULD BE A REQUIRED FUNCTION OF A COMMISSION OF EXPERTS RATHER THAN LEFT AS A DISCRETIONARY OPTION FOR THE ICAO COUNCIL. UTILIZATION OF SUCH EXPERTS, WHO COULD BE CHOSEN BY THE STATES PARTY TO THE CONVENTION, WOULD ALSO REDUCE THE LIKELIHOOD OF ALLEGATIONS OF POLITICAL PRESSURES. THE UNITED STATES GOVERNMENT ALSO SUGGESTED THAT THE PROPOSED INDEPENDENT CONVENTION CAN BE STRENGTHENED BY GIVING THE CONFERENCE OF STATES PARTIES BROAD LATITUDE IN THE TYPES OF RECOMMENDATIONS IT COULD MAKE.

BASED ON RECENT ICAO EXPERIENCE WITH THE HAGUE AND MONTREAL CONVENTIONS IT CAN BE ANTICIPATED THAT THE PROPOSED INDEPENDENT CONVENTION WOULD ENTER INTO FORCE IN A REASONABLY SHORT PERIOD OF TIME, POSSIBLY LESS THAN A YEAR, AND THUS IT WOULD CONSTITUTE A TIMELY AND EXPEDITIOUS MEASURE AGAINST THREATS TO THE SAFETY OF INTERNATIONAL CIVIL AVIATION.

IF AN EFFECTIVE INDEPENDENT CONVENTION CAN BE AGREED UPON IN THE DIPLOMATIC CONFERENCE AS A TIMELY AND EXPEDITIOUS MEASURE, THE UNITED STATES GOVERNMENT COULD SUPPORT SIMULTANEOUS ADOPTION BY THE ASSEMBLY OF AN LIMITED OFFICIAL USE
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APPROPRIATE AMENDMENT TO THE CHICAGO CONVENTION AS A POSSIBLE LONG RANGE MEASURE. AS RECENTLY PROPOSED BY FRANCE, SWITZERLAND AND THE UNITED KINGDOM, THIS AMENDMENT COULD INCORPORATE BY REFERENCE THE SUBSTANTIVE PROVISIONS OF THE HAGUE AND MONTREAL CONVENTIONS AND, AS PROPOSED TO THE ICAO LEGAL COMMITTEE BY SWITZERLAND AND THE UNITED KINGDOM, IT COULD ALSO FACILITATE THE TAKING OF EFFECTIVE ACTION BY ICAO TO DEAL WITH A THREAT TO CIVIL AVIATION. THE EXPERIENCE GAINED IN THE APPLICATION OF THE INDEPENDENT CONVENTION COULD, IF DESIRED, BE USED AND INCORPORATED INTO THE CHICAGO CONVENTION BY AMENDMENT, WHEREBY THE PURPOSES OF THE INDEPENDENT CONVENTION COULD BE ACCOMPLISHED THROUGH ICAO ORGANS ONCE THE AMENDMENT ENTERED INTO FORCE.

THE UNITED STATES GOVERNMENT THEREFORE EXPRESSES ITS HOPE THAT AT THE ROME MEETINGS THE GOVERNMENT OF (BLANK) WILL VIEW THE PROPOSALS DESCRIBED ABOVE AS COMPLEMENTARY AND ACCORDINGLY WILL SUPPORT SIMULTANEOUS ADOPTION BY THE DIPLOMATIC CONFERENCE OF AN EFFECTIVE INDEPENDENT CONVENTION, AND ADOPTION BY THE EXTRAORDINARY ASSEMBLY OF THE AMENDMENTS TO THE CHICAGO CONVENTION DESCRIBED

ABOVE.

THE PROTOCOL TO THE HAGUE CONVENTION PROPOSED BY THE U.S.S.R. MENTIONED ABOVE WOULD CURRENTLY REQUIRE EXTRADITION OF ALL OFFENDERS WITHOUT EXCEPTION. IF THIS PROPOSAL WERE MODIFIED TO PROVIDE THAT EXTRADITION CONSTITUTED THE PREFERENTIAL REMEDY WHILE PRESERVING THE OPTION OF SUBMISSION TO PROSECUTION FOR CERTAIN CATEGORIES OF PERSONS, THE UNITED STATES WOULD BE PREPARED TO GIVE IT SERIOUS CONSIDERATION. END TEXT.

3. WHERE POSTS DEEM IT ADVISABLE, TO ENSURE AT LEAST CURSORY AWARENESS US POSITION, REQUEST FOLLOWING PRECIS BE TRANSLATED INTO LOCAL LANGUAGE AND AFFIXED TO AIDE MEMOIRE WHEN DELIVERED:QUOTE: THE ATTACHED AIDE MEMOIRE

DESCRIBES THE PROPOSALS BEFORE THE INTERNATIONAL CONFERENCE ON AIR LAW AND THE EXTRAORDINARY ICAO ASSEMBLY WHICH WILL MEET IN ROME, AUGUST 28-SEPTEMBER 21, 1973. IT ALSO SETS LIMITED OFFICIAL USE
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FORTH THE U.S. POSITION ON THESE PROPOSALS. BECAUSE THE SAFETY OF INTERNATIONAL CIVIL AVIATION IS A MATTER OF VITAL CONCERN TO ALL NATIONS, THE U.S. HOPES THAT ALL STATES WILL APPROACH THE ROME MEETINGS WITH A CONSTRUCTIVE AND CONCILIATORY ATTITUDE. IN AN EFFORT TO REFLECT THIS ATTITUDE, THE U.S. BELIEVES THAT THE PROPOSALS BEFORE THE DIPLOMATIC CONFERENCE, NONE OF WHICH CONTEMPLATES MANDATORY SANCTIONS, AND THE PROPOSALS BEFORE THE ASSEMBLY, MAY BE REGARDED RESPECTIVELY AS COMPLEMENTARY SHORT AND LONG RANGE EFFORTS TO IMPROVE THE SAFETY OF INTERNATIONAL CIVIL AVIATION. SPECIFICALLY, IN THE DIPLOMATIC CONFERENCE, AS A PROMPT MEASURE, THE U.S. WILL SUPPORT ADOPTION, WITH CERTAIN MODIFICATIONS, OF THE PROPOSAL BY THE NORDIC STATES FOR AN INDEPENDENT CONVENTION WHICH WOULD PERMIT THE CONSIDERATION OF ACTIONS CONTRARY TO THE PRINCIPLES OF THE HAGUE AND MONTREAL CONVENTIONS AND THE MAKING OF RECOMMENDATIONS DESIGNED TO REMEDY THE SITUATION. AS A LONG TERM MEASURE, PROVIDED THAT AN EFFECTIVE INDEPENDENT CONVENTION IS ADOPTED BY THE CONFERENCE, THE U.S. WILL ALSO SUPPORT SIMULTANEOUS ADOPTION BY THE ASSEMBLY OF THE RECENT PROPOSAL OF FRANCE, THE UNITED KINGDOM AND SWITZERLAND TO AMEND THE CHICAGO CONVENTION THROUGH INCORPORATION BY REFERENCE OF THE SUBSTANTIVE PROVISIONS OF THE HAGUE AND MONTREAL CONVENTIONS. THE U.S. BELIEVES THAT THE SOVIET PROPOSAL BEFORE THE DIPLOMATIC CONFERENCE SHOULD RECEIVE SERIOUS CONSIDERATION IF MODIFIED TO PERMIT PROSECUTION IN LIEU OF EXTRADITION FOR CERTAIN CATEGORIES OF PERSONS. THE U.S. EXPRESSES ITS HOPE THAT THE EFFORTS OF ALL STATES ATTENDING THE ROME MEETINGS WILL CONTRIBUTE SIGNIFICANTLY TO THE FUTURE SAFETY OF INTERNATIONAL CIVIL

AVIATION AND TO THE IMPORTANCE OF ICAO. END QUOTE.

4. POSTS SHOULD NOTE US INTEREST IN INDICATION WHETHER HOST GOVERNMENTS WILL SEND DELEGATION TO ROME MEETINGS, MAKE-UP OF DELEGATION AND ANY VIEWS HOST GOVERNMENTS MIGHT HAVE CONCERNING ROME MEETINGS, PROPOSALS TO BE CONSIDERED AND US POSITION.

5. FOR NEA, AF, ARA AND EA POSTS AS THEY CONSIDER APPROPRIATE: EMBASSIES SHOULD EMPHASIZE THAT PROPOSALS BEFORE ROME MEETINGS ARE MODEST IN NATURE AND MERELY LIMITED OFFICIAL USE
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ATTEMPT TO PROMOTE BROADEST POSSIBLE RESPECT FOR PRINCIPLES REFLECTED IN HAGUE (HIJACKING) AND MONTREAL (SABOTAGE) CONVENTIONS. IN THIS REGARD, PROPOSALS BEFORE DIPLOMATIC CONFERENCE CONTEMPLATE NO MANDATORY SANCTIONS WHATSOEVER.

(FOREGOING DESIGNED REDUCE SUSPICION AND APPREHENSION ON PART MAINLY ARAB/AFRICAN STATES GENERATED BY SANCTIONS PROPOSALS FORMERLY PROMOTED BY US BUT NOW ABANDONED.)

6. IN ADDITION TO FOREGOING, DEPARTMENT WOULD WELCOME ANY INFORMATION POSTS MIGHT PICK UP CONCERNING PREPARATIONS FOR UPCOMING ASSEMBLY/CONFERENCE, PARTICULARLY VIEWS OF ANY BILATERAL OR MULTILATERAL CONSULTATIONS.

7. FOR BRASILIA AND BUENOS AIRES: PLEASE COORDINATE TRANSMISSION OF AIDE MEMOIRE WITH VISIT OF GAITHER.

8. FOR TOKYO: IN TRANSMITTING AIDE MEMOIRE EMBASSY MAY WISH REFER TO MATTERS DESCRIBED IN TOKYO 9899.

9. FOR BONN, COPENHAGEN, HELSINKI, LONDON, MOSCOW, OSLO, OTTAWA, PARIS, THE HAGUE: IN TRANSMITTING AIDE MEMOIRE, EMBASSIES SHOULD EXPRESS USG'S APPRECIATION FOR PRIOR OPPORTUNITIES TO MEET AND CONSULT WITH HOST GOVERNMENT REPRESENTATIVES ON MATTERS TO BE DISCUSSED AT ROME MEETING.
ROGERS

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To: ALL DIPLOMATIC POSTS INFO MONTREAL
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